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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BROADCAST MUSIC, INC.; RONDOR
MUSIC INTERNATIONAL, INC. d/b/a
IRVING MUSIC; BOY MEETS GIRL MUSIC;
UNIVERSAL MUSIC-Z TUNES LLC d/b/a
UNIVERSAL MUSIC Z SONGS;
MOEBETOBLAME MUSIC; HIP CITY
MUSIC INC.; and HIFROST PUBLISHING,

Plaintiffs,

v.

FLIP FLOPZ LLC d/b/a FLIP FLOPZ OF
NORTH WILDWOOD a/k/a FLIP FLOPZ
BEACH BAR & GRILL; and JOSEPH M.
MAHONEY, individually,

Defendants.

Civil Action No. _____

Document Electronically Filed

COMPLAINT

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants, allege as follows:

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. Sections 101 *et seq.* (the "Copyright Act"). This Court has jurisdiction pursuant to 28 U.S.C. Section 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. Section 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 8.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this action. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Rondor Music International, Inc. is a corporation doing business as Irving Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Boy Meets Girl Music is a partnership owned by Shannon Rubicam and George Robert Merrill. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Universal Music-Z Tunes LLC is a limited liability company doing business as Universal Music Z Songs. This Plaintiff is the copyright owner of at least one of the songs in this matter.

8. Plaintiff Moebetoblame Music is a partnership owned by Michael Balzary, John Anthony Frusciante, Anthony Kiedis, and Chad Gaylord Smith. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Hip City Music Inc. is a corporation. This Plaintiff is the copyright owner

of at least one of the songs in this matter.

10. Plaintiff Hifrost Publishing is a partnership owned by Hiriam Hicks and Elliot Straite. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Defendant Flip Flopz LLC is a limited liability company organized and existing under the laws of the State of New Jersey that operates, maintains, and controls an establishment known as Flip Flopz of North Wildwood, also known as Flip Flopz Beach Bar & Grill, located at 300 N. New Jersey Ave, North Wildwood, New Jersey 08260-2961 (the "Establishment"), in this district.

12. In connection with the operation of the Establishment, Defendant Flip Flopz LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

13. Defendant Flip Flopz LLC has a direct financial interest in the Establishment.

14. Defendant Joseph M. Mahoney is the managing member and sole member of Defendant Flip Flopz LLC with primary responsibility for the operation and management of that limited liability company and the Establishment.

15. Defendant Joseph M. Mahoney has the right and ability to supervise the activities of Defendant Flip Flopz LLC and a direct financial interest in that limited liability company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

16. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 15.

17. Plaintiffs allege five (5) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire.

All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

18. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the five (5) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

19. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

20. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

21. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the

Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

22. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

23. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

- (I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. Section 502;
- (II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. Section 504(c);
- (III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. Section 505; and
- (IV) Plaintiffs have such other and further relief as is just and equitable.

Dated: November 6, 2014
Newark, New Jersey

Respectfully submitted,

GIBBONS P.C.

By: s/ Owen J. McKeon

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Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	I Wanna Dance With Somebody Who Loves Me a/k/a Somebody Who Loves Me
Line 3	Writer(s)	George Merrill; Shannon Rubicam
Line 4	Publisher Plaintiff(s)	Rondor Music International, Inc. d/b/a Irving Music; Shannon Rubicam and George Robert Merrill, a partnership d/b/a Boy Meets Girl Music
Line 5	Date(s) of Registration	11/10/86 6/15/87 6/30/87
Line 6	Registration No(s).	PAu 901-755 PA 343-550 PAu 985-995
Line 7	Date(s) of Infringement	05/31/2014
Line 8	Place of Infringement	Flip Flopz Beach Bar & Grill

Line 1	Claim No.	2
Line 2	Musical Composition	You Remind Me of Something
Line 3	Writer(s)	Robert Kelly
Line 4	Publisher Plaintiff(s)	Universal Music-Z Tunes LLC d/b/a Universal Music Z Songs
Line 5	Date(s) of Registration	2/1/96
Line 6	Registration No(s).	PA 772-545
Line 7	Date(s) of Infringement	06/01/2014
Line 8	Place of Infringement	Flip Flopz Beach Bar & Grill

Line 1	Claim No.	3
Line 2	Musical Composition	Other Side a/k/a Otherside
Line 3	Writer(s)	Michael Balzary, John Frusciante, Anthony Kiedis, Chad Smith
Line 4	Publisher Plaintiff(s)	Michael Balzary, John Anthony Frusciante, Anthony Kiedis and Chad Gaylord Smith, a partnership d/b/a Moebetoblame Music
Line 5	Date(s) of Registration	3/30/99
Line 6	Registration No(s).	PAu 2-390-367
Line 7	Date(s) of Infringement	06/01/2014
Line 8	Place of Infringement	Flip Flopz Beach Bar & Grill

Line 1	Claim No.	4
Line 2	Musical Composition	Ignition
Line 3	Writer(s)	Robert Kelly a/k/a R. Kelly
Line 4	Publisher Plaintiff(s)	Universal Music-Z Tunes LLC d/b/a Universal Music Z Songs
Line 5	Date(s) of Registration	2/4/03
Line 6	Registration No(s).	PA 1-130-236
Line 7	Date(s) of Infringement	06/01/2014
Line 8	Place of Infringement	Flip Flopz Beach Bar & Grill

Line 1	Claim No.	5		
Line 2	Musical Composition	Poison		
Line 3	Writer(s)	Elliot T. Straite		
Line 4	Publisher Plaintiff(s)	Hip City Music Inc.; Hiriam Hicks and Elliot Straite, a partnership d/b/a Hifrost Publishing		
Line 5	Date(s) of Registration	8/14/89	3/19/90	6/7/90
Line 6	Registration No(s).	PAu 1-264-846	PAu 1-410-225	PA 475-115
Line 7	Date(s) of Infringement	05/31/2014		
Line 8	Place of Infringement	Flip Flopz Beach Bar & Grill		
